

SENATE BILL 2507
By Southerland

AN ACT to amend Tennessee Code Annotated, Title 70, Chapter 7, relative to creating the "Hazardous Recreation Parks Safety and Liability Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Hazardous Recreation Parks Safety and Liability Act".

SECTION 2. Tennessee Code Annotated, Title 70, Chapter 7, is amended by adding the following sections as a new part thereto.

SECTION 3. The purpose of this part is to encourage governmental owners or lessees of property to make land available to a governmental entity for skateboarding, in-line skating, or freestyle bicycling. It is recognized that governmental owners or lessees of property have failed to make property available for such activities because of the exposure to liability from lawsuits and the prohibitive cost of insurance, if insurance can be obtained for such activities. It is also recognized that risks and dangers are inherent in these activities, which risks and dangers should be assumed by those participating in the activities.

SECTION 4. As used in this part:

(1) "Governmental entity" means:

(A) The state, any county, municipality, department, agency, or other instrumentality thereof; or

(B) Any school board, special district, authority, or other entity exercising governmental authority.

(2) "Hazardous recreational activity" means skateboarding, in-line skating, or freestyle bicycling.

(3) "Inherent risk" means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding, in-line skating, and freestyle bicycling.

SECTION 5.

(a) No operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and kneepads.

(b) For any facility owned by or operated by a governmental entity that is designed and maintained for the purpose of recreational skateboard use, and that is not supervised on a regular basis, the requirements under subsection (a) are satisfied when all of the following occur:

(1) The governmental entity adopted an ordinance requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and kneepads.

(2) Signs are posted at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and kneepads and that any person failing to do so will be subject to citation under the ordinance described in subdivision (1).

SECTION 6.

(a) Any person who participates in or assists in hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to such person or other persons or property that result from these activities. Any person who observes hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to such person that result from these activities. No public entity that sponsors, allows, or permits skateboarding, in-line skating, or freestyle bicycling on its property is required to eliminate, alter, or control the inherent risks in these activities.

(b) While engaged in hazardous recreational activities, irrespective of where such activities occur, a participant is responsible for doing all of the following:

(1) Acting within the limits of such participant's ability and the purpose and design of the equipment used;

(2) Maintaining control of his or her person and the equipment used; and

(3) Refraining from acting in any manner that may cause or contribute to death or injury of such participant or other persons.

(c) Failure to comply with the requirement of subsection (b) of constitutes negligence.

SECTION 7.

(a) This section does not grant authority or permission for a person to engage in hazardous recreational activities on property owned or controlled by a governmental entity unless such governmental entity has specifically designated such area for these activities.

(b) No governmental entity or public employee shall be liable to any person who voluntarily participates in hazardous recreational activities for any damage or injury to property or persons that arises out of a person's participation in the activity and that takes place in an area designated for the activity.

(c) This section does not limit liability that would otherwise exist for any of the following:

(1) The failure of the governmental entity or public employee to guard against or warn of a dangerous condition of which a participant does not have and cannot reasonably be expected to have had notice.

(2) An act of gross negligence by the governmental entity or public employee that is the proximate cause of the injury.

(d) Nothing in this section creates a duty of care or basis of liability for death, personal injury, or damage to personal property. Nothing in this section shall be deemed to be a waiver of sovereign immunity under any circumstances.

(e) Nothing in this section limits the liability of an independent concessionaire or any person or organization other than a governmental entity or public employee, whether or not the person or organization has a contractual relationship with a governmental entity to use the public property, for injuries or damages suffered in any case as a result

of the operation of equipment for hazardous recreational activities on public property by the concessionaire, person, or organization.

(f) The fact that a governmental entity carries insurance that covers any activity subject to this act does not constitute a waiver of the liability limits under this section, regardless of the existence or limits of the coverage.

SECTION 8. This act shall take effect July 1, 2004, the public welfare requiring it.